

THE CITY OF SAN DIEGO, CALIFORNIA  
MINUTES FOR REGULAR COUNCIL MEETING  
OF  
TUESDAY, MARCH 8, 1994  
AT 10:00 A.M.  
IN THE COUNCIL CHAMBERS - 12TH FLOOR

CHRONOLOGY OF THE MEETING:

The meeting was called to order by Mayor Golding at 10:06 a.m. Mayor Golding acknowledged and welcomed students from Birdrock Elementary School. The meeting was adjourned by Mayor Golding at 12:14 p.m.

ATTENDANCE DURING THE MEETING:

- (M) Mayor Golding-Present
- (1) Council Member Mathis-present
- (2) Council Member Roberts-present
- (3) Council Member Kehoe-present
- (4) Council Member Stevens-present
- (5) Council Member Warden-present
- (6) Council Member Stallings-excused by  
R-283542 (City business in Washington,  
D.C., re MTDB)
- (7) Council Member McCarty-present
- (8) Council Member Vargas-present
- Clerk-Abdelnour (mp)

FILE LOCATION: MINUTES

ITEM-300: ROLL CALL

Clerk Abdelnour called the roll:

- (M) Mayor Golding-present
- (1) Council Member Mathis-present
- (2) Council Member Roberts-present
- (3) Council Member Kehoe-present

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- (4) Council Member Stevens-present
- (5) Council Member Warden-present
- (6) Council Member Stallings-not present
- (7) Council Member McCarty-present
- (8) Council Member Vargas-present

PUBLIC COMMENT:

None.

COUNCIL COMMENT:

None.

ITEM-51:

SUBJECT: Three actions related to Amendment of the Smoking Ordinance.

CITY COUNCIL'S RECOMMENDATION:

Adopt Subitem A, which was introduced as amended on 2/22/94 (Council voted 8-0. Mayor Golding voted nay on the amendment regarding bingo halls;

District 7 not present); and adopt Subitems B and C, which were introduced on 2/22/94 (Council voted 8-0. District 7 not present):

Subitem-A: (O-94-55) ADOPTED AS ORDINANCE O-18047  
(New Series)

Amending the San Diego Municipal Code by re-titling Chapter IV, Article 3 to "Environmental Health Quality Controls"; by creating a new Division 10 in Chapter IV, Article 3, entitled "Smoking Regulations"; and by amending, renumbering and repealing various Sections all relating to Regulations Affecting the Smoking of Tobacco or any other Weed or Plant, to regulate smoking in restaurants, bars, places of employment, and bingo halls.

Subitem-B: (O-94-56) ADOPTED AS ORDINANCE O-18048 (New

Series)

Amending the San Diego Municipal Code by creating a new Division 11 in Chapter IV, Article 3, entitled "Prohibition of Tobacco Vending Machines," and by adding Sections 43.1101, 43.1102, 43.1103 and 43.1104, relating to Regulations Affecting Tobacco Vending Machines, to prohibit all tobacco vending machines effective July 1, 1994.

Subitem-C: (O-94-57 Cor.Copy 3/2/94) ADOPTED AS  
ORDINANCE O-18049  
(New Series)

Amending Chapter IV, Article 2, Division 1 of the San Diego Municipal Code by renumbering, amending and re-titling various Sections; by repealing the title to Division 2 of Article 5 and the title to Article 5 of Chapter IV all relating to Food Handling Activities, Smoking Regulations and Health Regulated Businesses.

NOTE: Subitem C is a housekeeping measure which is a companion to Subitem A. Subitem C can only be acted upon if Council votes to adopt Subitem A. (Subitem B can be acted upon separately.)

FILE LOCATION: MEET

COUNCIL ACTION: (Tape location: A065-168.)

MOTION BY ROBERTS TO ADOPT EVERYTHING BUT THE BINGO HALLS. Second by Vargas. Passed by the following vote: Mathis-yea, Roberts-yea, Kehoe-yea, Stevens-yea, Warden-yea, Stallings-not present, McCarty-yea, Vargas-yea, Mayor Golding-yea.

MOTION BY ROBERTS TO INCLUDE BINGO HALLS UNDER SIMILAR RULES AS RESTAURANTS. Second by Vargas. Passed by the following vote: Mathis-nay, Roberts-yea, Kehoe-nay, Stevens-yea, Warden-yea, Stallings-not present, McCarty-yea, Vargas-yea, Mayor Golding-nay.

ITEM-330:

SUBJECT: Kings Row Subdivision Landscape Maintenance District.

(Lincoln Park Community Area. District-4.)

CITY MANAGER'S RECOMMENDATION:

Adopt the following resolution:

(R-94-974) ADOPTED AS RESOLUTION R-283516

Considering the protests, approving the modified map, confirming the assessments, and ordering the proposed maintenance, in the matter of the Kings Row Subdivision Landscape Maintenance District.

CITY MANAGER SUPPORTING INFORMATION:

A petition for this Landscape Maintenance District was signed by the owner-developer of 100 percent of the property area involved. This landscaping improvement plan is proposed by the owner-developer on the western part of Euclid Avenue along Kings Row Subdivision with the installation of landscaping of trees and low growth and low maintenance shrubs to create a more pleasing and attractive environment. These improvements will be furnished by the owner-developer. In order to provide for the continued maintenance of the proposed landscaping, this enhancement project will depend on the establishment of a Landscape Maintenance District. Those property owners within this district pay for the annual maintenance on the basis of benefit. A property that benefits is one that exists adjacent to the landscape to be maintained. The present action is for the establishment of the district only. After the landscape construction is approved by the City, the landscaping improvements will be maintained by the developer for approximately two years or until July 1996. Consequently, assessments will be levied during Fiscal Year 1997. The annual maintenance cost for the proposed landscaping improvements is estimated at \$10,194. The assessments are spread to include benefitting properties within the proposed district boundaries on the basis of 43 lots. The estimated annual assessment is approximately \$237 per lot. The property owners' assessments would not occur until Fiscal Year 1997.

FILE LOCATION: STRT M-307

COUNCIL ACTION: (Tape location: B315-324.)

Hearing began at 11:11 a.m. and halted at 11:12 a.m.

MOTION BY STEVENS TO ADOPT. Second by Kehoe. Passed by the following vote: Mathis-yea, Roberts-yea, Kehoe-yea, Stevens-yea, Warden-yea, Stallings-not present, McCarty-yea, Vargas-yea, Mayor Golding-yea.

ITEM-331:

SUBJECT: Appeal of Harry Kendall from the decision of the Planning Commission in denying the request for Conditional Use Permit Amendment/Golden Hill Planned District Permit CUP/GHP-92-0644 (Char-Lou Manor). (CUP/GHP-92-0644. District-8.)

CITY MANAGER'S RECOMMENDATION:

Note and file Subitem A and adopt Subitem B to deny the permit:

Subitem-A: (R-94- ) NOTED AND FILED

Adoption of a Resolution certifying that the information contained in Environmental Negative Declaration DEP-92-0644 has been completed in compliance with the California Environmental Quality Act of 1970 and State guidelines, and that the declaration has been reviewed and considered by the Council.

Subitem-B: (R-94-1400) DENY APPEAL, DENY PERMIT  
ADOPTED AS RESOLUTION R-283517

Adoption of a Resolution granting or denying the appeal and granting or denying the permit, with appropriate findings to support Council action.

OTHER RECOMMENDATIONS:

Planning Commission voted 7-0 to deny the permit.  
The Greater Golden Hill Planning Committee has recommended denial of the permit.

SUPPORTING INFORMATION:

The permit would allow the expansion of an existing residential care facility from 36 to 45 beds. The existing facility is operated in three buildings with a total of 7,555 square feet of floor area. The project is located at 2456 "E" Street between 24th and 25th Streets in the Golden Hill Community Plan area.

LEGAL DESCRIPTION:

The project is further described as Lots 37 through 40, Block 5 of the Breed and Chases' Subdivision.

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FILE LOCATION: PERM - CUP/GHP-92-0644

COUNCIL ACTION: (Tape location: A021-045;B320-D061.)

Hearing began at 11:12 a.m. and halted at 12:12 p.m.

Testimony by Jerry Dawson, Harry Kendall, Margaret Gardner, James Craig, Ann Riedman, Brit Richardson, Paul Bedington, and Louise Broderick.

MOTION BY KEHOE TO DENY THE APPEAL AND PERMIT AND TO ACCEPT THE AMENDMENT BY MATHIS TO MEET COMPLIANCE WITH THE CURRENT PERMIT BY NATURAL ATTRITION. Second by Warden. Passed by the following vote: Mathis-yea, Roberts-yea, Kehoe-yea, Stevens-yea, Warden-yea, Stallings-not present, McCarty-nay, Vargas-not present, Mayor Golding-yea.

ITEM-332:

SUBJECT: The request for Conditional Use Permit CUP-93-0529.  
(SDG&E Waste Management Facility).

(CUP-93-0529. District-5.)

CITY MANAGER'S RECOMMENDATION:

Adopt Subitem A and adopt Subitem B to grant the permit:

Subitem-A: (R-94-1401) ADOPTED AS RESOLUTION R-283518

Adoption of a Resolution certifying that the information contained in Supplemental Environmental Impact Report DEP-93-0529 has been completed in compliance with the California Environmental Quality Act of 1970 and State guidelines, and that the report has been reviewed and considered by Council, and adopting the Mitigation Monitoring and Reporting Program.

Subitem-B: (R-94-1402) GRANTED PERMIT ADOPTED AS  
RESOLUTION R-283519

Adoption of a Resolution granting or denying the permit, with appropriate findings to support Council action.

SUPPORTING INFORMATION:

Conditional Use Permit CUP-93-0529 would allow the construction, operation, and maintenance of a small, one-story hazardous waste management facility at the existing San Diego Gas and Electric Company Miramar Gas Turbine Yard. The project site is located at the west of Miramar Road at 6875 Consolidated Way in the M-1A Zone within the Mira Mesa Community Plan area.

FILE LOCATION: PERM - CUP-93-0529

COUNCIL ACTION: (Tape location: A050-062.)

Hearing began at 10:08 a.m. and halted at 10:09 a.m.

MOTION BY MATHIS TO ADOPT ITEM-332, -333, AND -S500. Second by Roberts. Passed by the following vote: Mathis-yea, Roberts-yea, Kehoe-yea, Stevens-yea, Warden-yea, Stallings-not present, McCarty-yea, Vargas-yea, Mayor Golding-yea.

ITEM-333:

SUBJECT: Refunding Certificates of Participation for the 1994 Balboa Park and Mission Bay Park Capital Improvements Program.

(See City Manager Report CMR-94-32.)

CITY MANAGER'S RECOMMENDATION:

After holding a public hearing, adopt the following resolution:

(R-94-1212) ADOPTED AS RESOLUTION R-283520

Approving the execution and delivery of Certificates of Participation for the purpose of refinancing certain facilities comprising the Balboa Park and the Mission Bay Park Capital Improvement Program, Phase IA.

CITY MANAGER SUPPORTING INFORMATION:

The 1994 Balboa Park/Mission Bay Park Capital Improvements Program Refunding Certificates of Participation (the "1994 COPs") will be sold to refinance approximately \$10 million of previously issued 1991 COPs at an estimated annual savings of \$45,000 and a total present value savings of \$725,000 over the life of the 1991 COPs, based on current market conditions. The 1991 COPs were originally executed and delivered to pay costs of certain

facilities relating to the City's Balboa Park and Mission Bay Park Master Plans. In order to cause the execution, sale and delivery of the 1994 COPs, the City must perform the following in accordance with Section 147(f) of the Internal Revenue Code of 1986: 1) the City of San Diego must conduct a public hearing at which the City will hear and consider information concerning the possible execution and delivery of the 1994 COPs on behalf of the City (the public hearing is intended to comply with the public approval requirements set forth in the code); 2) a Notice of Public Hearing will be published 14 days prior to the hearing. The hearing is scheduled to be conducted at the 10:00 a.m., March 8, 1994, City Council Meeting. In accordance with Section 147(f), the resolution to approve the execution and delivery of the refunding certificates should be adopted following the hearing.

FILE LOCATION: MEET

COUNCIL ACTION: (Tape location: A050-062.)

Hearing began at 10:08 a.m. and halted at 10:09 a.m.

MOTION BY MATHIS TO ADOPT ITEM-332, -333, AND -S500. Second by Roberts. Passed by the following vote: Mathis-yea, Roberts-yea, Kehoe-yea, Stevens-yea, Warden-yea, Stallings-not present, McCarty-yea, Vargas-yea, Mayor Golding-yea.

ITEM-S401: APPROVED

SUBJECT: A ballot measure amending Section 12 of the City Charter pertaining to filling Council vacancies.

Approval of ballot language for a proposed Charter amendment relating to filling Council vacancies for the June 7, 1994 ballot. (Continued from the meeting of March 1, 1994, Item 331, Subitem A-1.) (See Item S402 for a companion item.)

FILE LOCATION: MEET

COUNCIL ACTION: (Tape location: A172-B181.)

MOTION BY MATHIS TO APPROVE THE BALLOT LANGUAGE AS FOLLOWS: "IF VACANCY OCCURS WITH MORE THAN ONE (1) YEAR REMAINING IN THE TERM: SPECIAL ELECTION HELD WITHIN 90 DAYS. COUNCIL OPTION TO CONSOLIDATE WITH ANY REGULARLY SCHEDULED ELECTION OCCURRING WITHIN 180 DAYS. SHOULD NO CANDIDATE RECEIVE A



MAJORITY OF VOTES CAST, A RUN-OFF ELECTION REQUIRED TO BE HELD WITHIN 49 DAYS. COUNCIL OPTION TO CONSOLIDATE WITH ANY REGULARLY SCHEDULED ELECTION OCCURRING WITHIN 90 DAYS. WINNER SERVES THE REMAINDER OF THE UNEXPIRED TERM. IF THE VACANCY OCCURS WITH ONE (1) YEAR OR LESS REMAINING IN THE TERM: COUNCIL SHALL APPOINT A PERSON TO SERVE THE REMAINDER OF THE TERM. ANY SUCH APPOINTEE SHALL BE INELIGIBLE TO SEEK ELECTION FOR THE UPCOMING TERM." Second by McCarty. Passed by the following vote: Mathis-yea, Roberts-yea, Kehoe-yea, Stevens-yea, Warden-yea, Stallings-not present, McCarty-yea, Vargas-nay, Mayor Golding-yea.

ITEM-S402:

SUBJECT: Proposed Election Ordinance Containing Two Propositions for the June 7, 1994 Ballot: 1) An amendment to the City Charter pertaining to Filling Council Vacancies; and 2) A Phase Shift Measure for the North City Future Urbanizing Area. (Partially in the Coastal Zone. District-1.) (Continued from the meeting of March 1, 1994, Item 331.)

Subitem-A: (O-94-76 Rev.1) INTRODUCED AND ADOPTED AS  
AMENDED AS ORDINANCE  
O-18050 (New Series)

Introduction and adoption of an Ordinance ordering, calling, providing for and giving notice of a Special Municipal Election to be held in the City of San Diego on June 7, 1994, for the purpose of submitting to the qualified voters of the City of San Diego: 1. One proposition amending Section 12 of the City Charter of the City of San Diego pertaining to Filling Council Vacancies; 2. One proposition amending the Progress Guide and General Plan for the City of San Diego to re-designate certain parcels of land from "Future Urbanizing" to "Planned Urbanizing" in the North City Future Urbanizing Area; and Consolidating the Special Municipal Election with the Statewide Election to be held on June 7, 1994.

Subitem-B: (R-94-1229) ADOPTED AS RESOLUTION R-283521

Requesting the consolidation of a Special Municipal Election to be held in the City of San Diego on June 7, 1994 with the Statewide Primary election to be held on the same date.

FILE LOCATION: Subitem-A-2: LAND-Progress Guide and  
General Plan-North City  
Future Urbanizing Area;  
Subitem-A-1, B: MEET

COUNCIL ACTION: (Tape location: B181-304.)

MOTION BY ROBERTS TO INTRODUCE AND ADOPT THE ORDINANCE WITH THE AMENDMENT TO THE BALLOT LANGUAGE RELATING TO THE FUTURE URBANIZING AREA WHICH WAS APPROVED ON MONDAY, MARCH 7, 1994, AS FOLLOWS: "SECTION 10. PROTECTIONS FOR CONTIGUOUS COMMUNITIES. NO DEVELOPMENT IN A SUBAREA WITHIN THE NORTH CITY FUTURE URBANIZING AREA SHALL OCCUR UNTIL THE CITY COUNCIL APPROVES A TRAFFIC ANALYSIS AND PHASING PLAN FOR THAT SUBAREA, OR DEVELOPMENT PARCEL IN THE CASE OF SUBAREA II. ANY TRAFFIC ANALYSIS AND PHASING PLAN SHALL PROVIDE MITIGATION FOR THE TRAFFIC IMPACTS ON COMMUNITIES CONTIGUOUS TO THE NORTH CITY FUTURE URBANIZING AREA CREATED BY THE DEVELOPMENT IN EACH SUBAREA, OR DEVELOPMENT PARCEL IN THE CASE OF SUBAREA II. FOR PURPOSES OF THIS SECTION 10, THE TERM 'MITIGATION' SHALL MEAN THE IMPLEMENTATION OF REASONABLE MEASURES DESIGNED TO ALLEVIATE TRAFFIC IMPACTS IN A MANNER CONSISTENT WITH THE TRANSPORTATION ELEMENTS SET FORTH IN THE COMMUNITY PLANS OF THOSE CONTIGUOUS COMMUNITIES IN EFFECT ON JUNE 7, 1994, OR AS MAY BE SUBSEQUENTLY AMENDED BY THE CITY."; AND WITH THE BALLOT LANGUAGE RELATING TO FILLING COUNCIL VACANCIES AS FOLLOWS: "IF VACANCY OCCURS WITH MORE THAN ONE (1) YEAR REMAINING IN THE TERM: SPECIAL ELECTION HELD WITHIN 90 DAYS. COUNCIL OPTION TO CONSOLIDATE WITH ANY REGULARLY SCHEDULED ELECTION OCCURRING WITHIN 180 DAYS. SHOULD NO CANDIDATE RECEIVE A MAJORITY OF VOTES CAST, A RUN-OFF ELECTION REQUIRED TO BE HELD WITHIN 49 DAYS. COUNCIL OPTION TO CONSOLIDATE WITH ANY REGULARLY SCHEDULED ELECTION OCCURRING WITHIN 90 DAYS. WINNER SERVES THE REMAINDER OF THE UNEXPIRED TERM. IF THE VACANCY OCCURS WITH ONE (1) YEAR OR LESS REMAINING IN THE TERM: COUNCIL SHALL APPOINT A PERSON TO SERVE THE REMAINDER OF THE TERM. ANY SUCH APPOINTEE SHALL BE INELIGIBLE TO SEEK ELECTION FOR THE UPCOMING TERM." ADOPT THE RESOLUTION REQUESTING THE CONSOLIDATION OF A SPECIAL MUNICIPAL ELECTION. Second by McCarty. Passed by the following vote: Filling Council Vacancies: Mathis-yea, Roberts-yea, Kehoe-yea, Stevens-yea, Warden-yea, Stallings-not present, McCarty-yea, Vargas-nay, Mayor Golding-yea. Future Urbanizing Area: Mathis-yea, Roberts-yea, Kehoe-nay, Stevens-yea, Warden-yea, Stallings-not present, McCarty-yea, Vargas-yea, Mayor Golding-nay.

ITEM-S500:

SUBJECT: Ordering Foreclosure Action Against Delinquent Parcels  
of Land.

(Mission Valley Community Area. District-6.)

CITY MANAGER'S RECOMMENDATION:

Adopt the following resolution:

(R-94-1241) ADOPTED AS RESOLUTION R-283522

Ordering action to be brought in the Superior Court of  
San Diego County to foreclose the assessment liens  
against delinquent parcels of land in Assessment  
District No. 4007 - First San Diego River Improvement  
Project (FSDRIP).

CITY MANAGER SUPPORTING INFORMATION:

Proceedings for Assessment District No. 4007, the First San Diego River Improvement Project (FSDRIP), were initiated by City Council Resolution of Intention R-267983 and were conducted pursuant to the provisions of Division 12, the Municipal Improvement Act of 1913, of the California Streets and Highways Code. Assessments to be levied against private property within the boundaries of the district were identified in the Final Engineer's Report and were confirmed at the conclusion of a public hearing held on June 2, 1987. Shortly thereafter, bonds were issued under the provisions of the Improvement Bond Act of 1915 in the amount of \$24,082,084.62 to represent the unpaid assessments. The Council resolution authorizing the bond issuance established the procedures the city is obligated to follow should a delinquency in the payment of assessment installments occur. The resolution stipulates that in the event of a delinquency in the payment of any installment of an unpaid assessment, foreclosure proceedings will be ordered as authorized under the Improvement Bond Act of 1915. As of December 10, 1993, installments were not paid when due on undeveloped property in the district commonly known as the Park in the Valley development. The total delinquency on each of the five parcels of land within this development, including a 10 percent penalty fee and a monthly interest charge of 1.5 percent are as follows:

PARCEL NUMBER	AMOUNT	PARCEL NUMBER	AMOUNT
438-030-27-00	\$423,404.84	438-030-37-00	\$2,503,276.97
438-030-30-00	\$204,573.87	438-030-39-00	\$1,590,070.39
438-030-35-00	\$1,239,209.63	TOTAL:	\$5,960,535.70

City Council direction to commence action in the Superior Court of the State to foreclose the assessment liens against delinquent parcels of land will allow the property upon which the delinquent unpaid assessment exists to be sold at a judicial foreclosure sale.

FILE LOCATION: STRT D-2256

COUNCIL ACTION: (Tape location: A050-062.)

MOTION BY MATHIS TO ADOPT ITEM-332, -333, AND -S500. Second by Roberts. Passed by the following vote: Mathis-yea, Roberts-yea, Kehoe-yea, Stevens-yea, Warden-yea, Stallings-not present, McCarty-yea, Vargas-yea, Mayor Golding-yea.

ITEM-CS-1: (R-94-1336) ADOPTED AS RESOLUTION R-283523

A Resolution adopted by the City Council in Closed Session on Tuesday, March 8, 1994:

Authorizing the City Manager to pay the sum of \$27,000.00 in the settlement of each and every claim against the City, its agents and employees, Superior Court Case No. 669898, Richard Houseworth v. City of San Diego, resulting from the personal injury claim of Richard C. Houseworth; authorizing the City Auditor and Comptroller to issue one check in the amount of \$27,000.00 made payable to Richard C. Houseworth and his attorney of record, John G. Phillips, in full settlement of all claims.

Aud. Cert. 9400839.

FILE LOCATION: MEET

NON-DOCKET ITEMS:

None.

ADJOURNMENT:

The meeting was adjourned by Mayor Golding at 12:14 p.m. in honor of the memory of Donald G. Parker as requested by

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Council Member Mathis.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Tape location: A065-076).